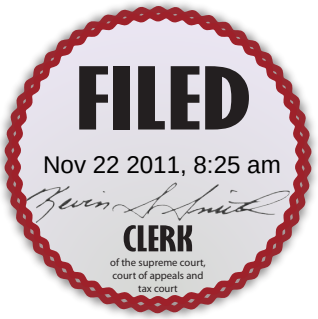

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IN THE
COURT OF APPEALS OF INDIANA

KATINA D. LOGAN,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 48A04-1104-CR-186
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MADISON SUPERIOR COURT
The Honorable David A. Happe, Judge
Cause No. 48D04-0908-FD-322, 48D04-1006-FD-192

November 22, 2011

MEMORANDUM DECISION - NOT FOR PUBLICATION

BARNES, Judge

Case Summary

Katina Logan appeals her sentences for Class D felony neglect of a dependent, Class A misdemeanor leaving the scene of an accident, and Class A misdemeanor driving while suspended and, under a separate cause number, Class D felony maintaining a common nuisance and Class D felony possession of a controlled substance. We affirm.

Issue

Logan raises one issue, which we restate as whether her sentence is inappropriate in light of the nature of the offenses and the character of the offender.

Facts

On August 11, 2009, twenty-four-year-old Logan was driving her car with her unrestrained four-year-old child in the vehicle. Logan was involved in a collision and left the scene. Near her home, she abandoned the vehicle, removed its license plate and some papers, and staggered toward her house. Officers were unable to locate Logan, but found the license plate and papers at her house. Officers also found Logan's son with neighbors. He had facial injuries from the accident. The State charged Logan with Class D felony neglect of a dependent, Class A misdemeanor leaving the scene of an accident, and Class A misdemeanor driving while suspended under Cause Number 48D04-0908-FD-322 ("Cause No. 322").

While Logan was on bond, on June 1, 2010, police were dispatched to a domestic dispute at Logan's residence. When they arrived, Logan ran into the house and came back out a few minutes later. Logan smelled strongly of raw marijuana, and the officers asked for consent to search her house, which she granted. In a hamper in a child's room,

the officers found marijuana and fourteen Xanax pills. The State charged Logan with Class D felony possession of cocaine, Class D felony maintaining a common nuisance, and Class D felony possession of a controlled substance under Cause Number 48D04-1006-FD-192 ("Cause No. 192").

In June 2010, Logan and the State reached a plea agreement that would have resulted in eighteen months of probation on Cause No. 322 and twenty-four months of probation on Cause No. 192. The trial court took the plea under advisement pending review of a presentence investigation report. At the sentencing hearing, the trial court rejected the plea agreement.

On February 16, 2011, Logan pled guilty as charged in Cause No. 322, and she pled guilty to Class D felony maintaining a common nuisance and Class D felony possession of a controlled substance in Cause No. 192. The State dismissed the Class D felony possession of cocaine charge in Cause No. 192. Sentencing was left to the trial court's discretion. The trial court accepted Logan's guilty pleas and, at the sentencing hearing, found Logan's criminal history and bond violation as aggravating factors and her guilty plea, remorse, and learning disability as mitigating factors. The trial court accepted the probation department's sentencing recommendation and sentenced Logan in Cause No. 322 to concurrent sentences of thirty months for the neglect of a dependent conviction, twelve months for the leaving the scene of an accident conviction, and twelve months for the driving while suspended conviction. In Cause No. 192, the trial court sentenced Logan to concurrent sentences of thirty-six months for the maintaining a common nuisance conviction and thirty-six months for the possession of a controlled

substance conviction. The trial court then suspended the entire thirty-six months to probation and ordered that the suspended sentence be served consecutively to the executed sentence in Cause No. 322. Logan now appeals.

Analysis

Logan argues that her sentence is inappropriate in light of the nature of the offenses and the character of the offender. Indiana Appellate Rule 7(B) provides that we may revise a sentence authorized by statute if, after due consideration of the trial court's decision, we find that the sentence is inappropriate in light of the nature of the offense and the character of the offender. When considering whether a sentence is inappropriate, we need not be "extremely" deferential to a trial court's sentencing decision. Rutherford v. State, 866 N.E.2d 867, 873 (Ind. Ct. App. 2007). Still, we must give due consideration to that decision. Id. We also understand and recognize the unique perspective a trial court brings to its sentencing decisions. Id. Under this rule, the burden is on the defendant to persuade the appellate court that his or her sentence is inappropriate. Childress v. State, 848 N.E.2d 1073, 1080 (Ind. 2006).

The principal role of Rule 7(B) review "should be to attempt to leaven the outliers, and identify some guiding principles for trial courts and those charged with improvement of the sentencing statutes, but not to achieve a perceived 'correct' result in each case." Cardwell v. State, 895 N.E.2d 1219, 1225 (Ind. 2008). We "should focus on the forest—the aggregate sentence—rather than the trees—consecutive or concurrent, number of counts, or length of the sentence on any individual count." Id. When reviewing the appropriateness of a sentence under Rule 7(B), we may consider all aspects of the penal consequences imposed by the

trial court in sentencing the defendant, including whether a portion of the sentence was suspended. Davidson v. State, 926 N.E.2d 1023, 1025 (Ind. 2010).

Logan contends that none of her sentence should be served in the Department of Correction. She argues that these are her first felony convictions, her criminal history is primarily driving and drug-related offenses, she has a learning disability, she is caring for her grandfather, and she pled guilty.

The nature of the offenses is that Logan left the scene of an accident at which her unrestrained four-year-old child was injured. Logan then abandoned her vehicle and her child, removed her license plate and some papers from the vehicle, and staggered away. Officers found the license plate and the papers at her residence and found her injured child with neighbors. While on bond for these offenses, officers responding to a domestic dispute at Logan's residence found marijuana and fourteen Xanax pills in a hamper in a child's room.

As for the character of the offender, Logan indicates that she receives Social Security Disability income due to learning disabilities. Despite her young age, Logan has a lengthy criminal history. As a juvenile, Logan was adjudicated delinquent for committing an act that would have been operating a vehicle having never been licensed if committed by an adult. As an adult, Logan had a 2004 child restraint violation, a 2005 child restraint violation, a 2008 conviction for driving while suspended, 2008 convictions for operating while intoxicated and failure to provide proof of insurance, 2009 convictions for operating while intoxicated and failure to provide proof of insurance, a 2009 child restraint violation and convictions for operator never licensed and failure to

provide proof of insurance, a 2009 conviction for public intoxication, and a 2010 conviction for failure to provide proof of insurance. At the time of the August 2009 offenses at issue here, Logan was on probation. In October 2009, she admitted to violating her probation and eighteen months were "revoked to home detention with sobrietor." Appellant's App. p. 27. It appears that Logan was on home detention at the time of the June 2010 offenses at issue here. At the time of the sentencing hearing in March 2011, Logan had pending charges for Class C misdemeanor operating while intoxicated, two counts of Class A misdemeanor operating while intoxicated, and Class D felony operating while intoxicated for an August 2009 incident and pending charges for two counts of Class B felony dealing in cocaine for a February 2011 incident.

Given Logan's criminal history, the fact that she was on probation, bond, and home detention at the time of some of the offenses, and the nature of her offenses, we cannot say that the sentence imposed by the trial court is inappropriate in light of the nature of the offenses and the character of the offender.

Conclusion

Logan's sentence is not inappropriate in light of the nature of the offenses and the character of the offender. We affirm.

Affirmed.

ROBB, C.J., and BRADFORD, J., concur.